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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,615	11/07/2001	Yutaka Hasegawa	2552-000005	3828

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EXAMINER

GESESSE, TILAHUN

ART UNIT PAPER NUMBER

2684

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,615

Applicant(s)

HASEGAWA ET AL.

Examiner

Tilahun B Gesesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.5-6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2,4,6-7,9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigaki et al "Ishigaki" (6,271,455) in view of Nakatsuyama (6,253,246).

As to claims 1-2, 11, Ishigaki discloses a music data distribution system (figure 1) for distributing music data to an external device (5) connected to a network (receiving apparatus 5 of figure 1, column 4, line 43-column 5, line 4), comprising: a storage device (8) that stores first music data (column 4, lines 46-50 and figure 1), a receiver that receives a music data distribution request from the external device connected to the network, the music data distribution request comprising at least music data identification information and music data quality information (column 13, lines 35-67 and figure 12), a reading device (CPU 70) that reads the first music data from the storage device in accordance with the music data identification information (column 7, lines 50-66 and figure 5), a transmitter (1) that transmits the music data to the external device (5)

accordance with the contents of the music data distribution request (column 9, lines 65-column 10, lines 12 and figure 7).

Ishigaki does not expressly teach a quality converter that converts the first music data into second music data having a quality different from the first music data in accordance with the music data quality information. However, Nakatsuyama teaches a quality converter (24) that converts the first music data (stored musical data) into second music data (compressed based on quality table) having a quality different from the first music data in accordance with the music data quality information (column 7, line 58-column 8, line 12, column 2, lines 30-33, and figure 3). Since, Ishigaki, with the similar art of endeavor, indicates the sound quality of the music piece differs depending on the designated compressing system (column 13, lines 42-44), then, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki and Nakatsuyama in converting music piece into a higher quality, as taught by Nakatsuyama, for improving the sound of the music by compressing music data to minimizing the background echo.

As to claim 4, Ishigaki discloses the music data distribution request further comprises device identification information a format converter that converts the second (compressed) music data into third music data (decompressed) having a file format reproducible at the external device (column 4, lines 7-42).

As to claim 6, Ishigaki teaches the first music data has a file format reproducible at an electronic musical instrument and the second music data has a file format reproducible at a mobile phone (abstract).

As to claims 7,9-10,12, all limitation as explained above and further more, Ishigaki teaches a searching device that searches the first music data from the storage device in accordance with the music data identification information (column 14, lines 1-19 and figure 13).

4. Claims 3, 5, 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishigaki in view of Nakatsuyama as applied to claim 1 above, and further in view of Henrick (6,507,727).

As to claims 3,5, Ishigaki and Nakatsuyama do not expressly teach a charging device that charges a user of the external device with the distribution price determined by the distribution price determiner. However, Henrick teaches a charging device (106) that charges a user of the external device with the distribution price determined by the distribution price determiner (column 3, lines 25-40 and figures 1 and 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki, Nakatsuyama and Henrick to charge the external user for the requested song or music, as taught by Henrick, in order the music distributing system render an income for the service providing to the users.

As to claim 8, Ishigaki and Nakatsuyama do not expressly teach the information transmitted by the transmitter contains information for displaying the price set by the price setting device. However, the information transmitted by the transmitter contains information for displaying the price set by the price setting device (column 5, lines 1-10 and figure 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Ishigaki, Nakatsuyama and Henrick to

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display the charge the external user, as taught by Henrick, in order to let the user aware of the amount of charged user account on the display of radio receiver.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bottom (6,014,569) discloses a method for transmitting audio data includes receiving identification data from a subscriber and in response to identification data transmitting audio data (abstract).

Schulhof et al (5,572,442) discloses a distribution system for audio program materials includes a portable audio storage and retrieval device (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TBG

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July 9, 2004


TILAHUNG GESESSE
PATENT EXAMINER